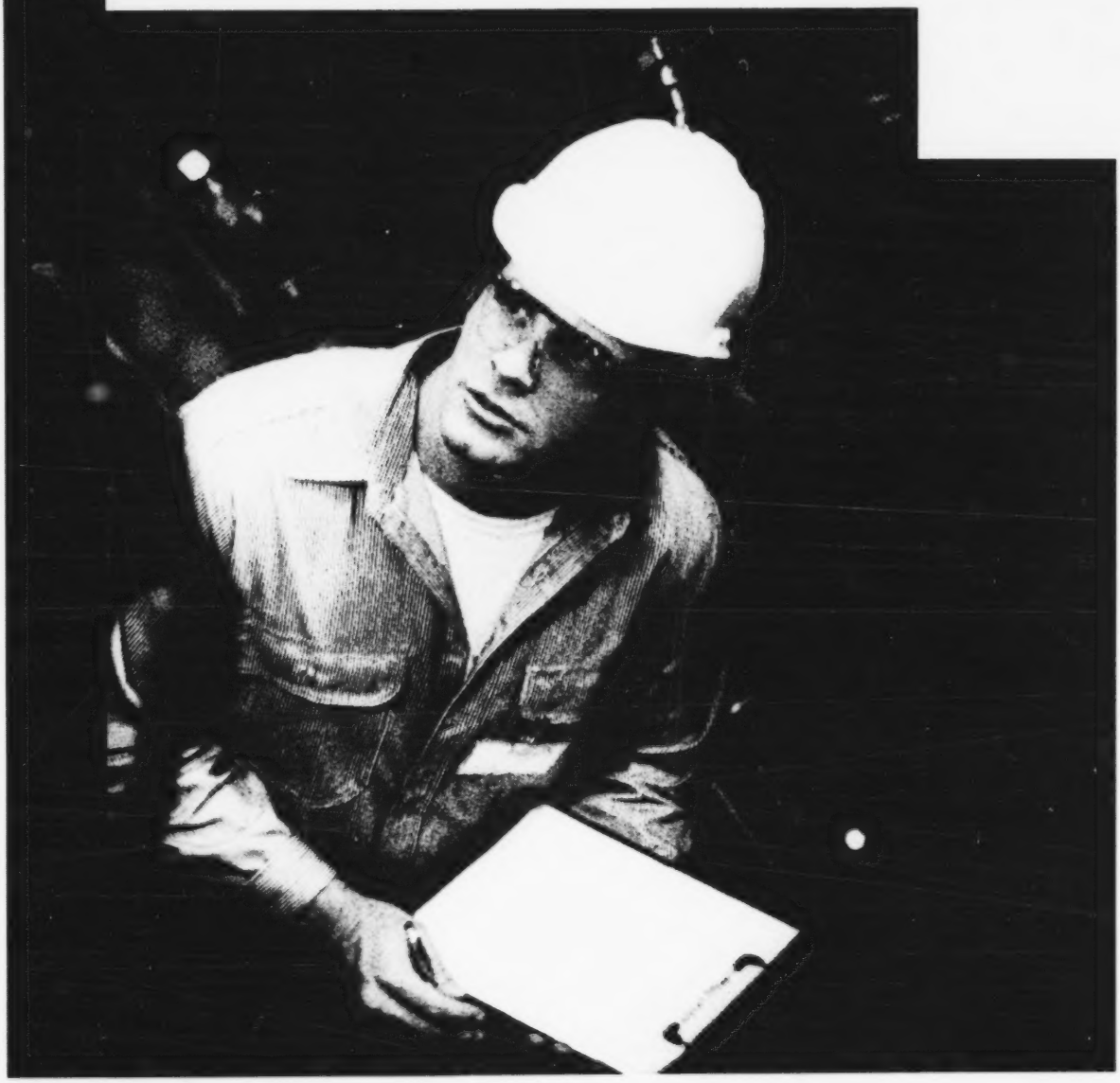
Occupational Health and Safety

Environment and Labour

Your Rights, Responsibilities, and the Occupational Health and Safety Act



Commonly asked Questions and their Answers

What is the Internal Responsibility System?

The Internal Responsibility System (IRS) is the foundation of the Occupational Health and Safety Act. Under the IRS, since all "workplace parties" influence what a workplace is like, they must all share responsibility for making the workplace safer and healthier. The Act sets out the responsibilities and duties of all workplace parties.

What is meant by "workplace parties"?

Anyone connected with a particular workplace. This can include Employers, Contractors, Constructors, Employees and the Self-Employed, as well as Owners, Suppliers, Architects, Engineers and Occupational Health and Safety Consultants.

Do all workplace parties share responsibility equally?

The Act states that all workplace parties share responsibility to the extent of their authority and ability to do so. An employer, for example, would ordinarily have more responsibility for workplace health and safety than would a supplier of goods.

As an employee, if I share in the responsibility for health and safety at my workplace, I'd like to have more "say" in how things are done.

Under the Act, you do have a "voice". The Act provides all workplace parties with three basic rights. They are:

The Right To Know
You have a right to information on issues that affect your health and safety.

The Right To Refuse
You have the right to refuse unsafe or unhealthy work.

The Right To Participate
You have the right to participate on health and safety committees or be a Health and Safety Representative. You also have the right to report unsafe conditions, and voice your concerns or opinions on any issue that affects your health and safety, or the health and safety of anyone at the workplace.

Duties and Precautions

When you share the responsibility for health and safety in the workplace, you must take every reasonable precaution necessary to prevent accidents. The following are some of the duties and precautions that the Act has set for various workplace parties.

Employers must ensure the health and safety of anyone at or near the workplace. Some of their duties include:

1 Maintain equipment
2 Provide safety instruction and job training
3 Make employees familiar with health and safety hazards in the workplace
4 Ensure employees have the right equipment and safety gear needed to do their job safely
5 Ensure employees are not exposed to health or safety hazards
6 Co-operate with the Joint Occupational Health and Safety Committee or the Health & Safety Representative and Department of Environment and Labour Officers
7 Comply with the Act and make sure that employees do so as well.

Contractors or Constructors must ensure the health and safety of people at or near the workplace or construction project.

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Table Of Contents

Commonly asked Questions and their Answers 2
- Internal Responsibility System (IRS) 2
- Workplace Parties 2
- The Right To Know 2
- The Right To Refuse 2
- The Right To Participate 3

Duties and Precautions 3
- Employer 3
- Contractor/Constructor 3
- Employee 4
- Owner 4
- Architects/Engineers and Providers of Occupational Health & Safety Services 4
- Education System 4

Occupational Health & Safety Policy 5

Occupational Health & Safety Program 6

Joint Occupational Health & Safety Committee 7

Health and Safety Representatives 8

Communication and Information 8

Workplace Monitoring 9

Right to Refuse Work 9

Discriminatory Action 11

Complaints 12

Department of Environment and Labour Inspections and Orders 12

Chemical Safety 13

Accidents 13

Appeals 13

Enforcement 14

Deviations 14

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Contractors or Constructors must ensure the health and safety of people at or near the workplace or construction project.

Employees have a duty to report anything in the workplace that they think may be dangerous to:

1 A supervisor
2 If the supervisor does not remedy the situation to the employee's satisfaction, report their concern to the Joint Occupational Health and Safety Committee or Health and Safety Representative.
3 If the Joint Occupational Health and Safety Committee or Health and Safety Representative does not remedy the situation to the employee's satisfaction, report your concern to the Department of Environment and Labour.

Employees must also take every reasonable precaution to ensure their health and safety and that of others in the workplace. This includes:

1 Co-operating with instructions to wear proper safety equipment and use safety procedures when doing a job
2 Co-operating with the Joint Occupational Health and Safety Committee or Health and Safety Representative.

Owners have a duty to maintain their land or premises properly when they are being used as a workplace. They must also pass along necessary health and safety information to any employers who occupy their land or premises.

Architects, engineers and other occupational health and safety consultants must make sure that the information they are giving out is accurate and complete.

Trade Schools and Community Colleges must include occupational health and safety principles as part of their courses.

Occupational Health and Safety Policy

Under the Act, if a business employs five or more people on a regular basis, the employer is required to prepare a written occupational health and safety policy.

This policy must indicate that the employer is committed to occupational health and safety, and that the employer will co-operate with employees in striving to meet the goal of a safer and healthier workplace.

The policy must also state the responsibilities of the employer and employees in creating and maintaining a safer and healthier workplace.

The Department of Environment and Labour assists employers in this task by publishing a guide to policy preparation. Contact the Department for your free copy or log-on to the Occupational Health and Safety Division website: http://www.gov.ns.ca/enla/healthandsafety.

Occupational Health and Safety Program

When a business employs twenty or more people on a regular basis, the employer must establish and maintain a written occupational health and safety program.

The program must include provision for:

1 The training and supervision of employees;
2 The preparation of written work procedures relative to health and safety;
3 The establishment of a Joint Occupational Health and Safety Committee or selection of a Health and Safety Representative, where one is required;
4 The establishment of a hazard identification program and accident/incident investigation system;
5 The maintenance of records and statistics, and;
6 The monitoring of the implementation and effectiveness of the program.

As with policies, the Department of Environment and Labour assists employers in this task by publishing a guide to program preparation. Contact the Department for your free copy or log-on to the Occupational Health and Safety Division website: http://www.gov.ns.ca/enla/healthandsafety.

Joint Occupational Health and Safety Committee

The creation of a Joint Occupational Health and Safety Committee is part of the employer's and employee's responsibility and right to participate. Such committees, made up of at least 50 percent non-management personnel, are required in every workplace where 20 or more workers are regularly employed.

The function of such a committee is to get employers and employees working together to improve health and safety in the workplace. Together they will make sure that:

1 Hazards are identified;
2 Health and safety requirements are complied with;
3 Health and safety matters or complaints arising in the workplace are quickly dealt with;
4 Regular inspections take place;
5 Advice on personal protective equipment is offered by the committee;
6 Policies or programs needed to be in compliance with the Act are reviewed in consultation with the committee, and;
7 Records and minutes of committee meetings are kept.

When such a committee is created:

1 The employer and employees must agree on the number of committee members;
2 At least half of the committee members must be employees not performing management functions;
3 The committee will have co-chairs representing management and non-management interests, unless the members agree to an alternative method of chairing;
4 The committee must meet at least once a month, unless the members agree on a different schedule;
5 Employees on the committee are allowed time off work with pay for committee business, and;
6 The committee must create its own rules of procedure.

Health and Safety Representatives

The duties of a health and safety representative are similar to those of a Joint Occupational Health and Safety Committee, with the exception of records, minutes and other issues that pertain to meetings are not required.

Communication of Information

Communication of information is part of the employer's and employee's responsibility and right to know. It is extremely important to workplace health and safety that everyone in the workplace communicates information. Both the employer and the employee must take steps to make sure that everyone has access to the health and safety information that they require. Some of the items noted in the Act which facilitate good communications are:

1 An employer who receives a written request to respond to a recommendation from a Joint Occupational Health and Safety Committee or a Health and Safety Representative must respond within twenty-one days. If the employer cannot provide the information, they must give a written explanation.
2 The employer is required to let the Joint Occupational Health and Safety Committee or a Health and Safety Representative know about reports on health and safety inspections, monitoring or tests, provide the reports or give a reason why the reports cannot be provided.
3 The current names of everyone on the Joint Occupational Health and Safety Committee or the Health and Safety Representative and how to get in touch with them must be displayed where they can be seen. Whenever a Joint Occupational Health and Safety Committee meeting has been held, the minutes of that meeting have to be displayed.
4 A copy of all Occupational Health and Safety Regulations that relate to that workplace must be available so that an employee may read them.
5 A copy of the Act, a telephone number for the Nova Scotia Department of Environment and Labour, and the workplace health and safety policy (where one is required) must be displayed in a place where employees can easily read it.
6 If an employer receives an order from the Dep Environment and Labour, the employer must display the order, along with the notice of compliance, and any notice of appeal or decision.
7 An employee who notices a hazard must immediately report that hazard to the employer.

Workplace Monitoring

Employee representatives have a right to watch workplace health and safety monitoring procedures and/or tests. If the employee asks, the monitoring and testing procedures must be explained so that the employee is able to understand what is going on.

Right to Refuse Work

If an employee is instructed to do work that they believe is dangerous to themselves or anyone else in the workplace, they can refuse to do the work until:

1 The employer takes action to remedy the problem to the employee's satisfaction.
2 The Joint Occupational Health & Safety Committee has investigated the situation, and all members of the Committee advise the employee to do the work.
3 A Department of Environment and Labour Officer investigates the situation and advises the employee to do the work.

If an employee is going to refuse to do work, these are the steps they should follow:

1 Report to a supervisor that they refuse to do the work.
2 If the problem is not remedied to the employee's satisfaction, the employee should report it to the Joint Occupational Health and Safety Committee, if one exists at that workplace.
3 If the problem is still not remedied to the employee's satisfaction, the employee should report it to the Nova Scotia Department of Environment and Labour.

When an employee refuses to do work, that employee has the right to participate in the investigation along with the Joint Occupational Health and Safety Committee, Health and Safety Representative or Department of Environment and Labour Officer when they inspect the workplace to see if the employee has a good reason for refusing to do the work.

During the refusal, the employee will be paid their regular wages.

When an employee refuses to do certain work, the employer is allowed to give them other work to do.

Also, when one person refuses to do certain work, the employer also has the right to give the work to another person, provided the second employee is made aware of:

1 The first employee's refusal,
2 The first employee's reason for refusing, and
3 The second employee's right to refuse.

Discriminatory Action

An employer or union cannot take, or threaten to take, discriminatory action against an employee because:

1 The employee has complied with the Act or regulations, or contacted the Department of Environment and Labour about a violation of the Act or regulations.
2 The employee has spoken to the Joint Occupational Health and Safety Committee or Health and Safety Representative, serves on or does Committee work or is the Health and Safety Representative.
3 The employee has refused to do work that the employee believes is unsafe or unhealthy.
4 The employee is going to testify or has testified in court about violations of the Act or regulations on the part of the employer.
5 The employee has told the Joint Occupational Health and Safety Committee, the Health and Safety Representative or a Department of Environment and Labour Officer about possible health and safety violations in the workplace.

Complaints

Where an employee believes that the employer or union are taking discriminatory action, the employee may complain to a Department of Environment and Labour Officer or, where available, initiate a grievance. Complaints to the Department of Environment and Labour must be in writing and filed within 30 days of the action taken by the employer or union.

Upon receipt of a complaint of Discriminatory Action, a Department of Environment and Labour Officer will decide whether or not the complaint is valid. If the complaint is found to be valid, then the Officer will issue an order requiring that any "damage" done to the employee is corrected. This could mean getting their job back, being paid their wages, etc.

If the Department of Environment and Labour Officer decides the employee does not have grounds to complain, then the employee must be notified of the decision.

Department of Environment and Labour Inspections

A Department of Environment and Labour Officer may enter a business at any reasonable time of the day or night. The Officer may request records, conduct an investigation, take samples, seize an item or question the employer or employees.

Chemical Safety

When hazardous chemicals are used in the workplace, the employer must prepare a list of what they are, and their common names. This list must be given to the Joint Occupational Health and Safety Committee or Health and Safety Representative.

Accidents

An employer must notify the Department of Environment and Labour within twenty-four hours if an accident happens in the workplace where a person has been killed or if there has been an accidental explosion, regardless of whether or not a person has been injured. If there has been a fire or accident at the workplace where a person has been injured, then the employer has seven days to notify the Department of Environment and Labour.

Appeals

A person who is directly affected by an order or decision by a Department of Environment and Labour Occupational Health and Safety Officer may appeal the action taken by the Department. Such appeal must be in writing and filed within fourteen days of the order or decision being received.

The appeal process has two levels. The first level is to the Director of the Department of Environment and Labour's Occupational Health and Safety Division, who may confirm, vary, revoke or suspend the order or decision. This decision may in turn be appealed by any directly affected party to an independent Appeal Panel, who may confirm, vary, revoke or suspend the Director's decision. The Appeal Panel's ruling is final.

Enforcement

Anyone who has been found guilty of an offense against the Act, could, depending on the circumstances, be fined as much as $250,000.00 plus $25,000 per day for each day the offence continues to occur or be imprisoned for a two-year term, or both.

The Act also gives a court the ability to seize profits made as a result of violating the Act or regulations and to assign alternative sentences.

The alternative sentence could include:

1 An order to publish the facts (in a local newspaper, for example) about the offence.
2 An order to contribute to public education on occupational health and safety.
3 An order to perform community service work.
4 Payment to the court of a certain amount of money to make sure they intend to comply with the court-ordered fine(s).

Deviations

There may be times when a workplace may feel they have a better way to do things than is allowed for in the health and safety regulations. In such cases, a written application can be made to the N.S. Department of Environment and Labour to deviate from all or some part of a regulation. The process requires the applicant to consult with affected employees and other individuals before proceeding with the request for a deviation. The Department can authorize the change if the proposed deviation will result in the same or better health and safety protection for employees than what is already stated in the regulation.

This information has been prepared by the Occupational Health and Safety Division. For clarification on the material or any other parts of the Occupational Health and Safety Act or Regulations, please contact us at:

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902-424-5400 or toll-free: 1-800-952-2687
www.gov.ns.ca/enla/healthandsafety

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